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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CENTER FOR BIOLOGICAL DIVERSITY  
*et al.*,

Plaintiffs,

v.

MICHAEL S. REGAN, in his official capacity  
as the Administrator of the United States  
Environmental Protection Agency,

Defendant.

Case No. 3:20-cv-00448-VC

**JOINT NOTICE TO COURT OF  
STIPULATION TO MODIFY CONSENT  
DECREE (DKT. NO. 33)**

Defendant Michael S. Regan, in his official capacity as the Administrator of the United States Environmental Protection Agency (hereinafter “EPA”), and Plaintiffs Center for Biological Diversity and Center for Environmental Health (collectively, “Plaintiffs”) file this stipulation notifying the Court that the parties have agreed to extend the deadline for final action on a portion of a nonattainment state implementation plan (“SIP”) submittal. The aforementioned deadline is set forth in Paragraph 1.d of the Consent Decree entered by the Court on October 21, 2020 (Dkt. No. 33). Paragraph 6 of the Consent Decree provides, inter alia, that “[t]he deadlines

1 established by this Consent Decree may be extended (a) by written stipulation of Plaintiffs and  
 2 EPA with notice to the Court . . .” Consent Decree, ¶ 6.

3 WHEREAS, the Consent Decree provides that the appropriate EPA official shall “sign a  
 4 notice of proposed rulemaking to approve, disapprove, conditionally approve, or approve in part  
 5 and conditionally approve or disapprove in part, on Oil and Gas RACT CTG SIP for the 2008  
 6 ozone NAAQS from Colorado for the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO  
 7 nonattainment area (codified at 40 C.F.R. § 81.306), by no later than June 30, 2021,” Consent  
 8 Decree, ¶ 1.c;

9 WHEREAS, on June 11, 2021, EPA proposed to approve SIP “revisions submitted by  
 10 the State of Colorado on May 14, 2018, May 8, 2019, and May 13, 2020. The revisions are to  
 11 Colorado Air Quality Control Commission (Commission or AQCC) Regulation Number 7 (Reg.  
 12 7). The revisions to Reg. 7 address Colorado's SIP obligation to require reasonably available  
 13 control technology (RACT) for sources covered by the 2016 oil & natural gas control  
 14 techniques guidelines (CTG or CTGs) for Moderate nonattainment areas under the 2008 ozone  
 15 National Ambient Air Quality Standard (NAAQS); update RACT requirements for major  
 16 sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>),” *Proposed Rule*, 86  
 17 Fed. Reg. 32,656 (June 22, 2021) (“Proposed Rule”);

18 WHEREAS, the Consent Decree provides that the appropriate EPA official shall “sign a  
 19 notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and  
 20 conditionally approve or disapprove in part, an on Oil and Gas RACT CTG SIP for the 2008  
 21 ozone NAAQS from Colorado for the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO  
 22 nonattainment area, by no later than October 31, 2021,” Consent Decree, ¶ 1.d;

23 WHEREAS, in light of comments from Plaintiff Center for Biological Diversity and  
 24 others<sup>1</sup> received in response to the Proposed Rule, EPA needs additional time to take final  
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 27 <sup>1</sup> Comments submitted to Docket No. EPA-R08-OAR-2021-0262 by the Center for Biological  
 28 Diversity, Earthworks, and the Sierra Club (Document ID Nos. EPA-R08-OAR-2021-0262-  
 0018, EPA-R08-OAR-2021-0262-0019, and EPA-R08-OAR-2021-0262-0020), Tracking  
 Number: krf-nqes-mi94, krf-o8h4-kb4k, and krf-o20w-alc.

1 action on a portion of the May 2018 Colorado Oil and Gas RACT CTG SIP submission for the  
2 Denver-Boulder-Greeley-Ft. Collins-Loveland, CO nonattainment area, identified as Colorado  
3 Regulation No. 7, Section XII.J.1 (since renumbered to Colorado Regulation No. 7, Part D,  
4 Section I.J.1), in order to address a deficiency related to testing, monitoring, recordkeeping and  
5 reporting requirements;

6 WHEREAS, therefore, the parties have agreed to an extension of the final rule deadline  
7 in Paragraph 1.d of the Consent Decree from October 31, 2021, as described below, as to the  
8 portion of the May 2018 Colorado Oil and Gas RACT CTG SIP submission for the Denver-  
9 Boulder-Greeley-Ft. Collins-Loveland, CO nonattainment area, identified as Colorado  
10 Regulation No. 7, Section XII.J.1 (since renumbered to Colorado Regulation No. 7, Part D,  
11 Section I.J.1);

12 WHEREAS, the parties disagree as to the scope of the obligation in Paragraph 1.d of the  
13 Consent Decree, but the parties understand that if EPA takes final action on Colorado  
14 Regulation No. 7, Sections XII.D, E, and F (as renumbered to Colorado Regulation No. 7, Part  
15 D, Sections I.D., I.E, and I.F and otherwise revised in the May 2020 Colorado SIP submittal)  
16 when it takes final action on Colorado Regulation No. 7, Part D, Section I.J.1 consistent with  
17 the deadlines set forth below, then Plaintiffs will not seek to enforce Paragraph 1.d of the  
18 Consent Decree as to Colorado Regulation No. 7, Part D, Sections I.D., I.E, and I.F;

19 NOW THEREFORE, Plaintiffs and EPA hereby stipulate as follows:

20 1. EPA's deadline to perform the action described in Paragraph 1.d of the Consent  
21 Decree (Dkt. No. 33, ¶ 1.d), to the extent it relates to a portion of the May 2018 Colorado Oil and  
22 Gas RACT CTG SIP submission for the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO  
23 nonattainment area identified as Colorado Regulation No. 7, Section XII.J.1 (since renumbered  
24 to Colorado Regulation No. 7, Part D, Section I.J.1) is extended to January 31, 2022.

25 2. Notwithstanding Paragraph 1, if by December 20, 2021, the Colorado Air Quality  
26 Control Commission issues a new or revised regulation affecting Colorado Regulation No. 7,  
27 Part D, Section I.J.1 that relates to testing, monitoring, recordkeeping, and reporting  
28 requirements, then EPA's deadline to perform the action described in Paragraph 1.d of the

1 Consent Decree (Dkt. No. 33, ¶ 1.d), to the extent it relates to the portion of the May 2018  
2 Colorado Oil and Gas RACT CTG SIP submission for the Denver-Boulder-Greeley-Ft. Collins-  
3 Loveland, CO nonattainment area identified as Colorado Regulation No. 7, Section XII.J.1 (since  
4 renumbered to Colorado Regulation No. 7, Part D, Section I.J.1) is extended to May 13, 2022.

5 Respectfully submitted,

6 Date: October 22, 2021

7 /s Robert Ukeiley (email auth. 10/20/21)

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